

OLL 85-1899/1
9 July 1985

MEMORANDUM FOR: C/L&PLD/OGC
DC/ALD/OGC

FROM:

[REDACTED]
Deputy Chief, Legislation Division/OLL

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SUBJECT: Draft GSA Letter on H.R. 2403 which would require public buildings, constructed or altered, to follow nationally recognized model building codes. The Office of Management and Budget (OMB) seeks views.

1. Attached is a draft letter to Congressman Howard, Chairman of the House Committee on Public Works and Transportation, from the General Services Administration, concerning H.R. 2403. Before clearing this letter, the Office of Management and Budget (OMB) asks for our comment. Essentially, the bill would require that public buildings constructed or altered under the Public Buildings Act of 1959 comply, to the maximum extent feasible, with nationally recognized model codes and with local zoning laws and certain other laws.

2. Note with particularity subsection (b) on page 4 of H.R. 2403 which states that nothing in the bill shall be construed to affect the authorities granted by certain provisions of the CIA Act of 1949.

3. So that we may provide a timely reply to the Office of Management and Budget (OMB), please give any oral or written comment by 15 July 1985 to [REDACTED]

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Attachments
as stated

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LEG/OLL: [REDACTED] (9 July 1985)

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99TH CONGRESS
1ST SESSION

H. R. 2403

To require that public buildings constructed or altered under the Public Buildings Act of 1959 comply, to the maximum extent feasible, with nationally recognized model codes and with local zoning laws and certain other laws.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 1985

Mr. SHAW (for himself, Mr. ROBERT F. SMITH, and Mr. SUNDQUIST) introduced the following bill; which was referred to the Committee on Public Works and Transportation

A BILL

To require that public buildings constructed or altered under the Public Buildings Act of 1959 comply, to the maximum extent feasible, with nationally recognized model codes and with local zoning laws and certain other laws.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) the Public Buildings Act of 1959 (40 U.S.C. 601 et
4 seq.) is amended by adding at the end thereof the following:
5 “SEC. 19. (a) Each public building constructed or al-
6 tered under this Act shall be constructed or altered, to the
7 maximum extent feasible, in compliance with one of the na-
8 tionally recognized model building codes and with other ap-

1 plicable nationally recognized codes. Such other codes shall
2 include, but not be limited to, electrical codes, fire and life
3 safety codes, and plumbing codes, as determined appropriate
4 by the Administrator. In carrying out this subsection, the Ad-
5 ministrator shall use the latest edition of the nationally recog-
6 nized codes referred to in this subsection.

7 “(b) Each public building constructed or altered under
8 this Act shall be constructed or altered, to the maximum
9 extent feasible, in compliance with all requirements (other
10 than procedural requirements) of—

11 “(1) zoning laws, and

12 “(2) laws relating to landscaping, open space,
13 parking, minimum distance of a building from the prop-
14 erty line, maximum height of a building, historic pres-
15 ervation, and esthetic qualities of a building, and other
16 similar laws,

17 of a State or a political subdivision of a State that would
18 apply to such building if it were not a public building.

19 “(c)(1) For purposes of meeting the requirements of sub-
20 sections (a) and (b) with respect to a public building, the Ad-
21 ministrator shall—

22 “(A) in preparing plans for such building, consult
23 with appropriate officials of the State or political subdi-
24 vision, or both, in which the building is to be con-
25 structed or altered;

1 “(B) submit such plans in a timely manner to such
2 officials for review by such officials for a reasonable
3 period of time not exceeding two months; and

4 “(C) permit inspection by such officials during
5 construction or alteration of the building, as determined
6 necessary by such officials in accordance with the usual
7 schedule of inspections for construction or alteration of
8 buildings in the locality.

9 “(2) Nothing in this section shall impose an obligation
10 on any State or political subdivision to take any action under
11 paragraph (1).

12 “(d) Appropriate officials of a State or a political subdi-
13 vision of a State may make recommendations to the Adminis-
14 trator concerning measures necessary to meet the require-
15 ments of subsections (a) and (b). Such officials may also make
16 recommendations to the Administrator concerning measures
17 that should be taken in the construction or alteration of a
18 public building to take into account local conditions. The Ad-
19 ministrators shall give due consideration to any such recom-
20 mendations.

21 “(e) No action may be brought against the United States
22 and no fine or penalty may be imposed against the United
23 States for failure to meet the requirements of subsection (a)
24 or (b) of this section or for failure to carry out any recommen-
25 dation under subsection (d).

1 “(f) The United States shall not be required to pay any
2 amount for any action taken under this section by a State or
3 a political subdivision of a State.

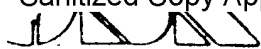
4 “(g) This section applies to—

5 “(1) any public building for which a prospectus for
6 construction or alteration is transmitted to Congress
7 under section 7 after the date of enactment of this sec-
8 tion, and

9 “(2) any public building for which planning for a
10 project for construction or alteration not requiring a
11 prospectus under section 7 is begun after the date of
12 enactment of this section.”.

13 “(h) Nothing in the amendment made by subsection (a)
14 shall be construed to affect the authorities granted in sections
15 5, 6, and 8 of the Central Intelligence Agency Act of 1949
16 (50 U.S.C. 403f, 403g, and 403j).

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Honorable James J. Howard
Chairman, Committee on
Public Works and Transportation
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Your Committee requested the views of the General Services Administration (GSA) on H.R. 2403, a bill "To require that public buildings constructed or altered under the Public Buildings Act of 1959 comply, to the maximum extent feasible, with nationally recognized model codes and with local zoning laws and other certain laws."

H.R. 2403 would make law a procedure that GSA has followed in the past. Our "Quality Standards for Design and Construction," PBS P 3430.1, has contained the following requirements for some time:

"It is GSA policy, however, to follow local codes and zoning ordinances to the fullest extent practical to accommodate local authorities having jurisdiction over fire and police protection and zoning in the area, and to ensure that the building is marketable, should it be decided to sell the building. Local codes which unduly restrict competition or limit innovation should not be adhered to."

We believe that the mandatory use of one of the three model building codes can easily be accommodated within our program. It should be noted, however, that several states continue to author their own statewide building codes, among them New York, Pennsylvania, and Wisconsin. We believe that in these states we should utilize the model code that is most prevalent in the regional area. Compliance with all provisions of the local code should continue to be an advisory provision as it would be extremely difficult for GSA to maintain within a regional office knowledge of every local amendment to a model code. We further concur with the bill's direction to utilize the national electric code, the national fire and life safety codes, and the national plumbing code.

It is important that the limitations on local procedural requirements be maintained in the bill as written. We are concerned that required compliance with local submission and review procedures could again lengthen the Federal design and construction process that we have worked hard to shorten. Further, we support the provision that frees local jurisdictions from mandatory review and inspection obligations.

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We believe that this bill will help further diminish the perceived differences between Federal construction and private construction. We encourage the interaction with local officials that the bill will foster.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to your Committee.

Sincerely,